

By: Representative Mayo

To: County Affairs

HOUSE BILL NO. 368

1 AN ACT TO AMEND SECTIONS 19-25-13, MISSISSIPPI CODE OF 1972,
2 TO INCREASE CERTAIN FEES CHARGED BY A SHERIFF IN PROVIDING
3 SERVICES; TO AMEND SECTION 25-7-19, MISSISSIPPI CODE OF 1972, TO
4 INCREASE THE CLOTHING ALLOWANCE OF PLAINCLOTHES INVESTIGATORS AND
5 SHERIFFS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 19-25-13, Mississippi Code of 1972, is
8 amended as follows:

9 19-25-13. The sheriff shall, at the July meeting of the
10 board of supervisors, submit a budget of estimated expenses of his
11 office for the ensuing fiscal year beginning October 1 in such
12 form as shall be prescribed by the Director of the State
13 Department of Audit. The board shall examine this proposed budget
14 and determine the amount to be expended by the sheriff in the
15 performance of his duties for the fiscal year and may increase or
16 reduce said amount as it deems necessary and proper.

17 The budget shall include amounts for compensating the
18 deputies and other employees of the sheriff's office, for
19 insurance providing protection for the sheriff and his deputies in
20 case of disability, death and other similar coverage, for travel
21 and transportation expenses of the sheriff and deputies, for
22 feeding prisoners and inmates of the county jail, and for such
23 other expenses as may be incurred in the performance of the duties
24 of the office of sheriff. In addition, the budget shall include
25 amounts for the payment of premiums on bonds and insurance for the
26 sheriff and his deputies which, in the opinion of the board of
27 supervisors, are deemed necessary to protect the interests of the
28 county or the sheriff and his deputies. Such amounts may include

29 official bonds and any bonds required of his deputies by the
30 sheriff; liability insurance; insurance against false arrest
31 charges; insurance against false imprisonment charges; theft, fire
32 and other hazards insurance; and hospitalization insurance as
33 provided for in Sections 25-15-101 and 25-15-103. The board may
34 authorize the reimbursement of the sheriff and deputies for the
35 use of privately owned automobiles or other motor vehicles in the
36 performance of official duties at the rate provided by law for
37 state officers and employees, or may authorize the purchase by the
38 sheriff of such motor vehicles and such equipment as may be needed
39 for operation of the sheriff's office, such vehicles and equipment
40 to be owned by the county. In counties which have elected to
41 purchase the motor vehicles and such equipment for the operation
42 of the sheriff's office, if a sheriff or deputy shall be required
43 in the performance of his official duties, in the event of an
44 emergency, to use his privately owned automobile or other motor
45 vehicle, the board of supervisors may, in its discretion,
46 authorize the reimbursement for such use at the rate per mile
47 provided by law for state officers and employees. This shall not
48 be construed as giving an officer a choice of whether to use his
49 own or the county's vehicle, but shall be construed so as not to
50 penalize an officer who must use his own vehicle because the
51 county's vehicle was not available.

52 The board of supervisors may acquire one or more credit cards
53 which may be used by the sheriff and his deputies to pay expenses
54 incurred by them when traveling in or out of state in the
55 performance of their official duties. The chancery clerk or
56 county purchase clerk shall maintain complete records of all
57 credit card numbers and all receipts and other documents relating
58 to the use of such credit cards. The sheriff shall furnish
59 receipts for the use of such credit cards each month to the
60 chancery clerk or purchase clerk who shall submit a written report
61 monthly to the board of supervisors, which report shall include an

62 itemized list of all expenditures and use of the credit cards for
63 the month, and such expenditures may be allowed for payment by the
64 county in the same manner as other items on the claims docket. The
65 issuance of a credit card to a sheriff or his deputy under the
66 provisions of this section shall not be construed to authorize
67 such sheriff or deputy sheriff to use such credit card to make any
68 expenditure which is not otherwise authorized by law.

69 The board of supervisors is hereby authorized and empowered,
70 in its discretion, to appropriate and pay a sum not to exceed
71 Eight Hundred Dollars (\$800.00) annually as a clothing allowance
72 to each sheriff and plainclothes investigator employed by the
73 sheriff's office of such county. The board of supervisors of any
74 county bordering on the Gulf of Mexico and having a population of
75 more than thirty-one thousand seven hundred (31,700) but less than
76 thirty-one thousand eight hundred (31,800) according to the 1990
77 Federal Census may appropriate and pay a sum not to exceed Four
78 Hundred Dollars (\$400.00) annually as a clothing allowance to the
79 administrator of the county jail.

80 The board of supervisors shall, at its first meeting of each
81 quarter beginning on October 1, January 1, April 1 and July 1,
82 appropriate a lump sum for the sheriff for the expenses of his
83 office during the current quarter. The quarterly appropriation
84 shall be one-fourth (1/4) of the amount approved in the annual
85 budget unless the sheriff requests a different amount. Except in
86 case of emergency, as provided in the county budget law, the
87 appropriation for the quarter beginning in October of the last
88 year of the sheriff's term shall not exceed one-fourth (1/4) of
89 the annual budget.

90 The sheriff shall file a report of all expenses of his office
91 incurred during the preceding month with the board of supervisors
92 for approval at its regular monthly meeting in a form to be
93 prescribed by the Director of the State Department of Audit, and
94 upon filing thereof, and approval by the board, the clerk of the

95 board shall issue warrants in payment thereof but not to exceed
96 the budget appropriation for that quarter. Any appropriated funds
97 which are unexpended at the end of the fiscal year shall remain in
98 the county general fund.

99 The budget for the sheriff's office may be revised at any
100 regular meeting by the board of supervisors. Upon recommendation
101 of the sheriff, the board may at any regular meeting make
102 supplemental appropriations to the sheriff's office.

103 Any fees previously required to be paid by a sheriff shall be
104 paid by the board of supervisors by including the estimates
105 therefor in the sheriff's budget. All fees and charges for
106 services heretofore collected by sheriffs shall be collected by
107 said sheriff and paid monthly into the general fund of the
108 concerned county. However, any fees heretofore collected by such
109 sheriffs from the county shall not be paid.

110 **SECTION 2.** Section 25-7-19, Mississippi Code of 1972, is
111 amended as follows:

112 25-7-19. (1) The sheriffs of the various counties of the
113 State of Mississippi shall charge the following fees:

114 (a) A uniform total fee in all criminal and civil cases
115 for the service of any process, summons, warrant, writ or other
116 notice as may be required by law or the court, each..... \$40.00

117 (b) In all cases where there is more than one (1)
118 defendant residing at the same household, service on each
119 additional defendant..... \$5.00

120 (c) After final judgment has been enrolled, notice of
121 further proceedings involving levy of execution on judgments, and
122 attachment and garnishment proceedings, shall be deemed a new suit
123 and the sheriff shall be entitled to the following fee..... \$40.00

124 (d) Taking bonds of every kind (for purposes of this
125 fee multiple bonds for criminal charges arising out of a single
126 incident or transaction shall be considered a single bond). \$40.00

127 (e) Attendance in habeas corpus proceeding in vacation,
128 eminent domain court and commitment cases..... \$40.00

129 (f) On all money made by virtue of any decree,
130 execution or attachment, or other process, the following
131 commissions, to wit:

132 On the first One Hundred Dollars (\$100.00), five
133 percent (5%),

134 On the second One Hundred Dollars (\$100.00), four
135 percent (4%),

136 On all sums over Two Hundred Dollars (\$200.00),
137 three percent (3%).

138 (g) For all service of all process of every kind and
139 nature issued from without the county wherein it is to be served,
140 a fee of..... \$25.00

141 In civil cases, all process sent out of the county, where
142 issued to another county for service, shall be accompanied by a
143 fee of Twenty-five Dollars (\$25.00) to pay the sheriff's fee for
144 his execution of such process unless the clerk or justice shall
145 endorse on the process that the party at whose instance it issued
146 had filed an affidavit of inability to pay costs thereof. All
147 fees sent and unearned, and the whole of it, shall be unearned if
148 the writ be not legally and properly executed and returned, and
149 shall be remitted by the sheriff with the writ at his own expense.

150 (2) The sheriff shall keep a complete account of every fee
151 of every nature, commission or charge collected by him, and shall
152 file an itemized statement thereof monthly, under oath, with the
153 clerk of the board of supervisors of his county who shall preserve
154 same as a part of the records of his office, and he shall make a
155 remittance to the clerk of the board of supervisors of his county
156 on or before the fifteenth of each month for deposit into the
157 general fund of the county of all said fees, commissions and
158 charges collected during the preceding month.

159 (3) Any sheriff who shall knowingly fail to collect any fee
160 established by law which was in fact collectible by him or having
161 collected the fee shall fail to keep account of such fee or fail
162 to deposit the fee with the clerk of the board of supervisors as
163 provided by subsection (2), or such other person or office
164 entitled thereto, shall be guilty of a misdemeanor in office and,
165 upon conviction therefor, shall be fined in an amount not to
166 exceed double the amount he failed to collect or pay over, or
167 imprisoned for not to exceed six (6) months in the county jail, or
168 be punished by both such fine and imprisonment.

169 This provision shall in no way lessen the sheriff's civil
170 liability on his bond, but shall be an additional penalty for
171 misfeasance or nonfeasance in office.

172 **SECTION 3.** This act shall take effect and be in force from
173 and after July 1, 2007.